

FACTSHEET

TITLE: SPECIAL PERMIT NO. 1423G, an amendment to the **HIMARK ESTATES COMMUNITY UNIT PLAN**, requested by D & M Development, L.L.C. and HiMark Development, Inc., to add 20** single family units in the southern portion of Outlot "A", for a total of 559** dwelling units, with associated waiver requests, on property generally located at So. 90th Street and Medinah Drive.

STAFF RECOMMENDATION: Conditional approval, as revised.

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: 09/03/03 and 09/17/03
Administrative Action: 09/17/03

RECOMMENDATION: Conditional Approval, as revised (7-1: Larson, Bills-Strand, Carlson, Duvall, Marvin, Taylor and Steward voting 'yes'; Krieser voting 'no').

FINDINGS:

1. This proposed amendment to the HiMark Estates Community Unit Plan, as submitted and recommended for approval by the Planning Commission, adds 20 single-family dwelling units to the community unit plan, for a total of 559 dwelling units.
2. The applicant requests the following waivers:
 - A. Minimum cul-de-sac radius.
 - B. Sidewalks on the south side of Sandhills Court.
 - C. Preliminary plat process.

The original application requested three additional waivers (intersection separation, lot area for Outlot "O", and width of major streets); however, these waivers were recommended for denial in the staff report and the applicant is no longer requesting these waivers.
3. On September 3, 2003, the public hearing was deferred for two weeks at the request of the applicant (p.9)
4. The applicant's testimony is found on p.10. The applicant objected to Condition #1.11, which requires the dedication of an additional 10' of right-of-way along the north side of Old Cheney Road. The developer would prefer to grant an easement in lieu of right-of-way. (The Planning Commission did not delete this condition).
5. Testimony in opposition is found on p.10-11, with concerns about congestion, the appearance and quality of the "patio" homes, compatibility with the surrounding area, property values and the additional traffic and safety concerns with Sandhills Court. The record also consists of six letters in opposition (p.25-36).
6. The applicant's response to the opposition is found on p.12.
7. On September 17, 2003, the Planning Commission voted 7-1 to approve the amended staff recommendation of conditional approval (Krieser dissenting). Condition #2 approves 559 dwelling units.
8. The Site Specific conditions of approval required to be completed prior to scheduling this application on the City Council agenda have been satisfied and the revised site plan is attached (p.17).
9. ****Note**** The resubmittal by the applicant in accordance with the Site Specific conditions of approval shows the addition of 19 dwelling units, for a total of 558.

FACTSHEET PREPARED BY: Jean L. Walker

REVIEWED BY: _____

REFERENCE NUMBER: FS\CC\2003\SP.1423G

DATE: November 10, 2003

DATE: November 10, 2003

LINCOLN CITY/LANCASTER COUNTY PLANNING STAFF REPORT

for September 17, 2003 PLANNING COMMISSION MEETING

This is an amended staff report

P.A.S.: Special Permit #1423G
HiMark Estates CUP

PROPOSAL: This is a request to amend Special Permit 1423 to add 20 single-family units in the southern portion of Outlot "A," for a total of 559 dwelling units within the CUP.
****NOTE: The applicant has removed one dwelling unit in the resubmittal****

LOCATION: South 90th Street and Medinah Drive.

WAIVER REQUEST: Intersection separation reduced from 120' to 110'.
Less than minimum lot area for Outlot "O".
Less than minimum cul-de-sac radius.
Eliminate sidewalks from south side of Sandhills Court.
Requirement for a preliminary plat.
Less than minimum width for major streets.

LAND AREA: 11.2 acres, more or less (actual area of amendment)
26.5 acres, more or less (Outlot A)
401.7 acres, more or less (HiMark CUP)

CONCLUSION: The addition of these units is consistent with the currently approved Community Unit Plan, Comprehensive Plan, and Zoning Ordinance.

RECOMMENDATION: **Conditional Approval**

Waivers:

- ~~Intersection separation reduced from 120' to 110'. **Denial**~~
****This Waiver is no longer being requested****
- ~~Less than minimum lot area for Outlot "O". **Denial**~~
****This Waiver is no longer being requested****
- Less than minimum cul-de-sac radius. **Approval**
- Eliminate sidewalks from south side of Sandhills Court. **Conditional Approval**
- Requirement for a preliminary plat. **Approval**
- ~~Less than minimum width for major streets. **Denial**~~
****This Waiver is no longer being requested****

GENERAL INFORMATION:

LEGAL DESCRIPTION:

All of the Lots, Blocks, and Outlots in the following subdivisions: HiMark Estates Addition, HiMark Estates 1st Addition, HiMark Estates 2nd Addition, HiMark Estates 3rd Addition, HiMark Estates 4th Addition, HiMark Estates 5th Addition Corrected, HiMark Estates 6th Addition, HiMark Estates 7th Addition, and Iron Gates Estates, all located in Section 11, T9N, R7E, City of Lincoln, Lancaster County, Nebraska.

The specific Lot to be amended is legally described as:

Outlot A, HiMark Estates 3rd Addition, located in the NW 1/4 of Section 11, T9N, R7E, City of Lincoln, Lancaster County, Nebraska.

EXISTING ZONING: R-3 Residential.

EXISTING LAND USE: Residential lots, private roadways, golf course and clubhouse, parking lot, and open space.

SURROUNDING LAND USE AND ZONING:

North:	R-3 Residential	Single-family residential
South:	R-3 Residential	Single-family residential
East:	AG Agriculture	Single-family acreage and HiMark golf course
West:	R-3 Residential	Single-family residential and HiMark golf course

HISTORY:

- Aug 2003 Received Special Permits #1423H and 1423I to amend the CUP by adding additional single-family and single-family attached dwelling units, roadways, outlots, and reduce the number of multiple-family dwelling units.
- Feb 2003 Special Permit #1423F approved the identification of certain townhouse lots with zero setbacks on all lot lines. The total number of approved dwelling units was still 539.
- Apr 2002 Special Permit #1423E approved. This amendment provided for setback adjustment to Lot 3, HiMark Estates 7th Addition, and approved 539 dwelling units.
- Aug 2001 Special Permit #1423C approved an increase in multiple-family dwelling units from 240 to 272. However, this permit was voided because the owner did not sign the Letter of Acceptance.
- Jan 2001 Special Permit #1423D withdrawn.
- Nov 2000 Special Permit #1423D submitted. This was a request to rename a private roadway and install gates at its entrance. Based upon a prior grant of public access over the private roadway, the Applicant could not use the gates to exclude the public.

- Nov 1999 Special Permit #1423C submitted.
- Aug 1999 Administrative Final Plat #99025 approved. This renamed Lots 7-48, Block 2 HiMark Estates to Lots 1-24, and 26-39, Block 1 and Outlot A, HiMark Estates 2nd Addition.
- Aug 1999 Administrative Amendment #99054 to Special permit #1423A approved to add restrooms and an irrigation pump house to HiMark Golf Course.
- Jul 1998 Change of Zone #3125 approved to change the zoning for the area covering this application from AG Agricultural to R-3 Residential.
- Jul 1998 Special Permit #1423B approved for the HiMark Estates Community Unit Plan, which included 507 dwelling units and golf course.
- Apr 1998 Special Permit #1423A withdrawn.
- Mar 1996 Special Permit #1423A submitted. This application sought to expand the existing clubhouse and add a cart storage building to the HiMark Golf Course.
- Aug 1993 Administrative Amendment #93055 to Special Permit #1423 approved to increase the number of parking stalls.
- Mar 1993 Administrative Amendment #92075 to Special Permit #1423 approved to rearrange portions of the parking lot and provide signage.
- Apr 1992 Special Permit #1423 approved for a golf course.
- Mar 1979 The zoning for the area of this CUP was changed from A-A Rural and Public Use to AG Agricultural as part of the 1979 Zoning Update.

COMPREHENSIVE PLAN SPECIFICATIONS: The Land Use Plan identifies this area Urban Residential. (F 25)

Urban Residential: Multi-family and single-family residential uses in areas with varying densities ranging from more than fifteen dwelling units per acre to less than one dwelling per acre. (F 27)

UTILITIES: Public

TRAFFIC ANALYSIS:

The Land Use Plan identifies Old Cheney Road as a Rural Major Collector (County) at the present time, and a Minor Arterial in the future. (E49, F103) The Comprehensive Plan shows Old Cheney Road in this area should have 120' of right-of-way. (F 112) Currently, there is 100' of right-of-way, therefore, an additional 10' should be acquired with this project.

Collector Streets: These streets serve as a link between local streets and the arterial system. Collectors provide both access and traffic circulation within residential, commercial, and industrial areas. Moderate to low traffic volumes are characteristic of these streets. (F 105)

Minor Arterials: This functional class serves trips of moderate length and offers a lower level of mobility than principal arterials. This class interconnects with, and augments principal arterials, distributes traffic to smaller areas, and contains streets that place some emphasis on land access. These are characterized by moderate to heavy traffic volumes. (F 103)

ENVIRONMENTAL CONCERNS:

The pond shown on the plan was not intended to function for detention purposes, and the outlet pipe is only designed for the ten-year storm. Thus, any storm greater than the ten-year will fill the pond and eventually overtop South 90th Street. Minimum opening information and 100-year storm elevation should be provided.

ANALYSIS:

1. This is a request to amend Special Permit 1423 to add 20 single-family units located generally northeast of South 90th Street and Old Cheney Road, for a total of 559 dwelling units. These lots must be platted prior to receiving building permits.
2. The total allowable density of this CUP is 1,418 dwelling units. At this point, the number of approved dwelling units is 539. Since this application includes an increase in the number of approved dwelling units, as well as waivers, the City Council must have final action.
3. The Public Works & Utilities Department does not support waiving the Design Standard that requires 120' separation between street intersections. The required 120' separation could be met with minimal adjustments to lot and street layout.
4. The Planning Department does not support less than minimum lot area for Outlot "O". Applicant states Outlot "O" will be used for green space/landscaping. However, adding this area to Lot 14 would create a corner lot which would be similar in size to the lot across Medinah Drive. The proposed outlot is not in character with the neighborhood.
5. The Public Works & Utilities Department supports the request for a less than minimum cul-de-sac radius of 35'.
6. The Public Works & Utilities Department supports the request to locate sidewalks along only the north side of Sandhills Court as there are no lots taking access off of the south side. The waiver is acceptable provided a sidewalk is extended from the east end of the sidewalk on the north side to the sidewalk in Old Cheney Road.
7. The Planning Department supports the request to waive the requirement for a preliminary plat since Applicant has submitted all of the information required with a preliminary plat as part of the special permit. The approved community unit plan may be used in lieu of the preliminary plat for the area of this amendment.
8. The Public Works & Utilities Department does not support the request for less than minimum right-of-way along a major street at this location. The Comprehensive Plan indicates Old Cheney Road should have 120' of right-of-way in this area. There currently exists 100' of right-

of-way along this portion of Old Cheney Road. However, the Public Works & Utilities Department is conducting further review of the design and construction drawings, and may have additional information at the public hearing.

9. Applicant should provide minimum opening elevations for Lots 1-19, Block 3 as they back onto the pond area. The 100-year storm elevation should also be provided.
10. The Building and Safety Department Fire Prevention Division has denied this application for lack of fire hydrants. However, additional fire hydrants can be added.
11. Lincoln Electric System easements are required.
12. The Parks and Recreation Department requires changing the street tree species along Sandhills Court.
13. Comments are attached from the Public Works & Utilities, Parks and Recreation, and Building and Safety Departments.

The Planning Department recommends the conditional approval of this application based on the following conditions.

CONDITIONS:

Site Specific:

1. After the applicant completes the following instructions and submits 1 original and 4 copies of the documents and plans to the Planning Department office and the plans are found to be acceptable, the application will be scheduled on the City Council's agenda:
 - 1.1 Revise Note 13 on the site plan to show 559 total units.
 - 1.2 Revise the note on Lot 22, Block 4 to show 1423E rather than 1423C.
 - 1.3 Revise the grading and drainage plan with minimum opening elevations for Lots 1-19, Block 3, above the 100-year storm elevation.
 - 1.4 Eliminate Outlot "O" and revise Note 19 on the site plan accordingly.
 - 1.5 Revise the landscape plan to verify there are 33 Patmore Ash shown along Old Cheney Road as indicated in the Street Tree and Landscape Schedule.
 - 1.6 Revise the landscape plan by replacing Greenspire Linden with Chanticleer Pear as the street tree for Sandhills Court.
 - 1.7 Provide a utility plan showing the location of fire hydrants in Sandhills Court, as requested by the Building and Safety Department.

- 1.8 Revise the alignment of Sandhills Court to provide 120' of separation from Old Cheney Road.
 - 1.9 Show the required LES easements. The easements may be viewed at the Planning Department.
 - 1.10 Add a sidewalk connection from the east end of Sandhills Court to Old Cheney Road.
 - 1.11 Revise the drawings to show the dedication of an additional 10' of right-of-way along the north side of Old Cheney Road.
2. This approval permits 559 dwelling units. ****NOTE: The applicant's resubmittal shows 558 dwelling units****
 3. The minimum cul-de-sac radius is waived, and a radius of 35' is approved, for Sandhills Court.
 4. The requirement for sidewalks along the south side of Sandhills Court is waived.
 5. The requirement that a preliminary plat be submitted is waived for the area of this application. The approved community unit plan shall serve the purpose of a preliminary plat for the area of this amendment. Final plats in this area may be approved based upon the approved community unit plan.
 6. The waiver of the filing of a preliminary plat and the approval of this community unit plan in lieu of a preliminary plat shall only be effective for a period of ten (10) years from the date of approval, and shall be of no force or effect thereafter. If any final plat on all or a portion of the approved community unit plan is submitted five (5) years or more after the date of approval, the City may require that a new community unit plan be submitted, pursuant to all the provisions of Section 26.31.015. A new community unit plan may be required if the subdivision ordinance, the design standards, or the required improvements have been amended by the City and as a result, the community unit plan as originally approved does not comply with the amended rules and regulations.

General:

7. Before receiving building permits:
 - 7.1 Permittee must submit 1 original and 5 copies of the plans as approved.
 - 7.2 Final Plats must be approved by the City.
 - 7.3 The construction plans shall comply with the approved plans.

STANDARD CONDITIONS:

8. The following conditions are applicable to all requests:

- 8.1 Before occupying the dwelling units all development and construction shall have been completed in compliance with the approved plans.
 - 8.2 The site plan accompanying this permit shall be the basis for all interpretations of setbacks, yards, locations of buildings, location of parking and circulation elements, and similar matters.
 - 8.3 This resolution's terms, conditions, and requirements bind and obligate the permittee, its successors and assigns.
 - 8.4 The applicant shall sign and return the letter of acceptance to the City Clerk within 30 days following the approval of the special permit, provided, however, said 30-day period may be extended up to six months by administrative amendment. The clerk shall file a copy of the resolution approving the special permit and the letter of acceptance with the Register of Deeds, filling fees therefor to be paid in advance by the applicant.
9. The site plan as approved with this resolution voids and supersedes all previously approved site plans, however all resolutions approving previous permits remain in force unless specifically amended by this resolution.

Prepared by:

Greg Czaplewski
Planner

Date: September 4, 2003

Applicant: Dan Muhleisen
D & M Development, L.L.C.
6321 Doecreek Circle
Lincoln, NE 68516
432.1200

Owner: HiMark Development, Inc. and D & M Development, L.L.C.
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Lincoln, NE 68516
432.1200

Contact: Olsson Associates
Mark Palmer
1111 Lincoln Mall
Lincoln, NE 68508
458.5632

**SPECIAL PERMIT NO. 1423G
AN AMENDMENT TO THE HIMARK ESTATES
COMMUNITY UNIT PLAN**

PUBLIC HEARING BEFORE PLANNING COMMISSION:

September 3, 2003

Members present: Bills-Strand, Carlson, Krieser, Duvall, Marvin, Taylor and Steward; Larson absent.

Staff recommendation: Conditional approval.

Ex Parte Communications: None.

Greg Czaplewski of Planning staff submitted additional information for the record, including two emails by Public Works in response to an email from June Simpson dated August 17, 2003; three letters in opposition from neighbors to this development; and a memo from Public Works asking for an additional 10' of right-of-way on the north side of Old Cheney Road. Czaplewski added Condition #1.1.1 to the staff recommendation: "Show the dedication of an additional 10' of right-of-way on the north side of Old Cheney Road."

Proponents

1. Mark Hunzeker appeared on behalf of **HiMark Development**, indicating that he did not find out about the 10' of additional right-of-way until today and that the applicant intends to request a waiver to provide an easement for public access as opposed to dedicating the additional 10'. The applicant was also informed today that they need to amend the preliminary plat to conform this amendment to the community unit plan with the plat. Therefore, Hunzeker requested a two-week deferral to allow advertising of the additional waiver requests.

Bills-Strand moved to defer two weeks, with continued public hearing and administrative action scheduled for September 17, 2003, seconded by Taylor and carried 7-0: Bills-Strand, Carlson, Krieser, Duvall, Marvin, Taylor and Steward voting 'yes'; Larson absent.

CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION:

September 17, 2003

Members present: Larson, Bills-Strand, Carlson, Krieser, Duvall, Marvin, Taylor and Steward.

Staff recommendation: Conditional approval.

Ex Parte Communications: None.

Greg Czaplewski of Planning staff submitted a letter in opposition.

Proponents

1. **Mark Hunzeker** appeared on behalf of **HiMark Development and D&M Development**, the developers of HiMark Estates. This is a replat revision of the existing CUP to add 20 single family lots to the CUP. The layout of this subdivision is along Old Cheney Road on the south and 90th Street on the west. These homes are to be built by Manzitto Brothers Construction as single family homes, and specifically designed to fit comfortably on these smaller lots. "Smaller does not mean low quality, low amenity nor cheap." These lots will be in the same price range as the lots in HiMark (over \$50,000). The homes are very attractive single family homes, all being built as some variation or other of the photographs which Hunzeker displayed. The idea is to create a small neighborhood within a neighborhood that has a very old-time feel to it. The covenants will be very comparable to those which exist in HiMark Estates, i.e. single family ranch style will be minimum of 1650 sq. ft., as compared with minimum of 2000 sq. ft. in HiMark Estates; the 1.5 story will be minimum of 2,050 sq. ft., and the two-story will be 2,150 sq. ft. They are also very comparable to the Vintage Heights covenants across the street.

Hunzeker further pointed out that these homes will be screened from Old Cheney Road with berming between the private roadway and the right-of-way line, with screening along the top of the berm. The area to the north of the private drive drops further to the north and these homes will not in any way detract from the view or the values of property on the south side of Old Cheney Road.

Hunzeker believes this proposal is in accordance with the Comprehensive Plan in that it does add to the density of a project which is basically at one-half or less of the density that would otherwise be permissible. It is an asset both to HiMark Estates and to the entire neighborhood.

Hunzeker agreed with the previous developer (Special Permit No. 1423H) on the relocation of the access point of Sandhills Court to 90th Street, and it will be revised to meet up with the street across from this development. This development will probably lose a lot in that process, but this developer has agreed to the separation and with the developer to the west as to the location of that roadway.

Hunzeker referred to the requirement to dedicate an additional 10'. This developer would like very much to grant an easement in lieu of right-of-way for that additional 10'. When the public way corridor design was proposed, there was much emphasis placed on the fact that we were not necessarily going to be taking 120' of right-of-way in every location, and that we would be able to grant easements in appropriate circumstances. The reason for the additional 10' on both sides was not because of the roadway and the sidewalks—it was to have the additional 10' on each side to have adequate separation from the curb to the sidewalk and landscaping between the sidewalk and the property lines. A five-lane roadway in that cross-section will not exceed 68'. You've got 16' on each side with a 100' right-of-way in order to set sidewalks back 8' from the curb, and a traditional 4' sidewalk before you get to the right-of-way line. With the 10' easement, the sidewalk could be placed further back from the street and have additional landscaping. Hunzeker requested that Condition #1.11 be deleted.

Opposition

1. **Wayne Janssen**, 9200 Merryvale, which is one of the houses across Old Cheney Road from Sandhills Court, testified regarding Sandhills Court. He has provided written comments which were prepared and submitted for the prior meeting. His primary concerns are congestion, appearance and safety. He is concerned with Lots 1 through 8. The homes were described initially as patio homes.

He has heard from various sources that patio homes don't have basements and share driveways. In this particular case, there will be eight of those patio homes on this little narrow private drive with a small turnaround at the end. He does not want to look at this across the street. He will already be seeing five lanes of Old Cheney Road, and he anticipated that. Beyond that, he will see a small buffer and then another private road, a mass of driveways and then fronts of houses. The general appearance is still going to be the equivalent of living across the street from a shopping center. This is not what was there when he purchased his lot. It was to be an outlot. They are trying to fit something in there that he does not believe may be reasonable. He believes there will be excess parking that will need to be done on Sandhills Court. This is a private drive and there could be parking on both sides. If we have an emergency and need to get an emergency vehicle in there, it could be impossible. The road is too narrow and they can't expand it because of the waterway and pond.

With regard to safety, Janssen believes that Sandhills needs to be eliminated so that Snyder could come straight out. Now, Snyder is proposed to be closer to Old Cheney and Sandhills is to go up to meet it. His concerns about safety have not been eliminated. Sandhills will bring in 8-24 cars at a point within only 120' from the centerline of Old Cheney Road. For someone coming off of Old Cheney Road, cars are going by at exorbitant speeds coming out of the undeveloped area. Someone going off of Old Cheney Road and onto 90th Street is likely to have to make that corner quickly. If Sandhills Court is immediately on the edge, he believes there is great chance for impact. The provisions for 120' are not necessarily anticipating this much traffic and congestion, and even 150' is not appropriate with that many cars coming into that intersection.

2. Tim O'Neill testified on behalf of the **Vintage Heights Homeowners Association** in opposition. Their concern is not the quality of the housing project. The problem and the reason they are in opposition is Sandhills Court. It does not fit the subdivision ordinance that requires the layout and design to conform with the surrounding neighborhood. We have a major arterial with at least 5 lanes, separated by a very small berm, then another two lanes, and then another set of street lights. That is not consistent with the character of the neighborhood. The Commission has the power to make the developer redesign to conform to the area around it. This is a frontage road and no one has frontage roads out there.

O'Neill agrees that 120' is excessive, but if it has to be 120', 10 needs to come from each side. There is a curve to the south right in this area. When this road gets straightened, do we have enough room on the north? He wants to make certain that the right-of-way is taken fairly and taken on both sides, and does not adversely impact Vintage Heights. O'Neill requested that this application be denied because of Sandhills Court.

Marvin noted that Snyder and Sandhills are offset by what looks like about 50'. Does that pose a traffic risk when they're coming out to 90th Street? Dennis Bartels of Public Works stated that the question was raised during the previous hearing in Special Permit 1423H, also. Pursuant to design standards, there is supposed to be a 120' offset or align the two streets. Bartels anticipates that the two will be straight across from each other. He has been told that the developer has agreed to the staff objection and that the two will align with each other.

Response by the Applicant

Hunzeker reaffirmed that the developer has agreed with the developer of the Snyder parcel to change the alignment of “this” roadway from “this” with the offset to “this” (Hunzeker was pointing to a map), which meets the Public Works objections and meets the design standards. There is probably a 10 degree, or less, deflection on that intersection, but that is within the design standards.

Hunzeker believes the safety question is a little bit odd. If you look at the aerial photo on page 193 of the agenda, you can see the west edge of the area north of Old Cheney Road, which is the location of this amendment. There is no intersection on the south side of Old Cheney Road. We are T-ing into Old Cheney from the north, so he is not sure about the issue of safety viz-a-viz people who live in Vintage Heights. Their access to Old Cheney Road is going to be at about 92nd or 93rd Street, or back at 88th Street. There certainly won't be any conflict from the south.

The other objection seems to be that we are providing front door appearances to Old Cheney Road as opposed to back door. If we were to move that road so that we had lots backing up to Old Cheney, creating double frontage lots (which are not favored in our planning scheme of things), it not only would have presented a much less ornate and much less aesthetically pleasing view to the street, it would have made the grades of the lots on the north side of Old Cheney Road kind of strange because the grades drop off toward the pond. There are not going to be any houses without basements. These are going to be walk-outs. To the extent that we have any ranch homes at all, they will be walk-out ranches.

The lighting will be standard residential street lighting, which everyone has in front of their house on all sides of this. Between this property and anything on the south side of Old Cheney Road will eventually be the lighting for an arterial street. The additional lighting, if any, that is provided for Sandhills Court, a private roadway, is going to be minimal by comparison. We have talked with LES about providing shielding from Old Cheney Road and property on the south, which is easy to do and meets design standards and we will gladly do that.

The bottom line objection is that there is a desire on the part of a property owner on the south side not to want to see any houses on the north side of Old Cheney Road across from Vintage Heights, which Hunzeker does not believe to be a reasonable objection to this project.

Dan Muhleisen testified that it is in this developer's best interest to screen Sandhills Court from Old Cheney Road. We are putting people on that side of the road who really don't want to see a four-lane arterial roadway, so we will do everything possible to screen Sandhills Court as well as the units that we build on the north side of Old Cheney Road so that we do not see that four-lane arterial roadway in the future. Our screening should be just what they want on the opposite side of Old Cheney Road so that they don't see our roadway, our driveways and our units.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

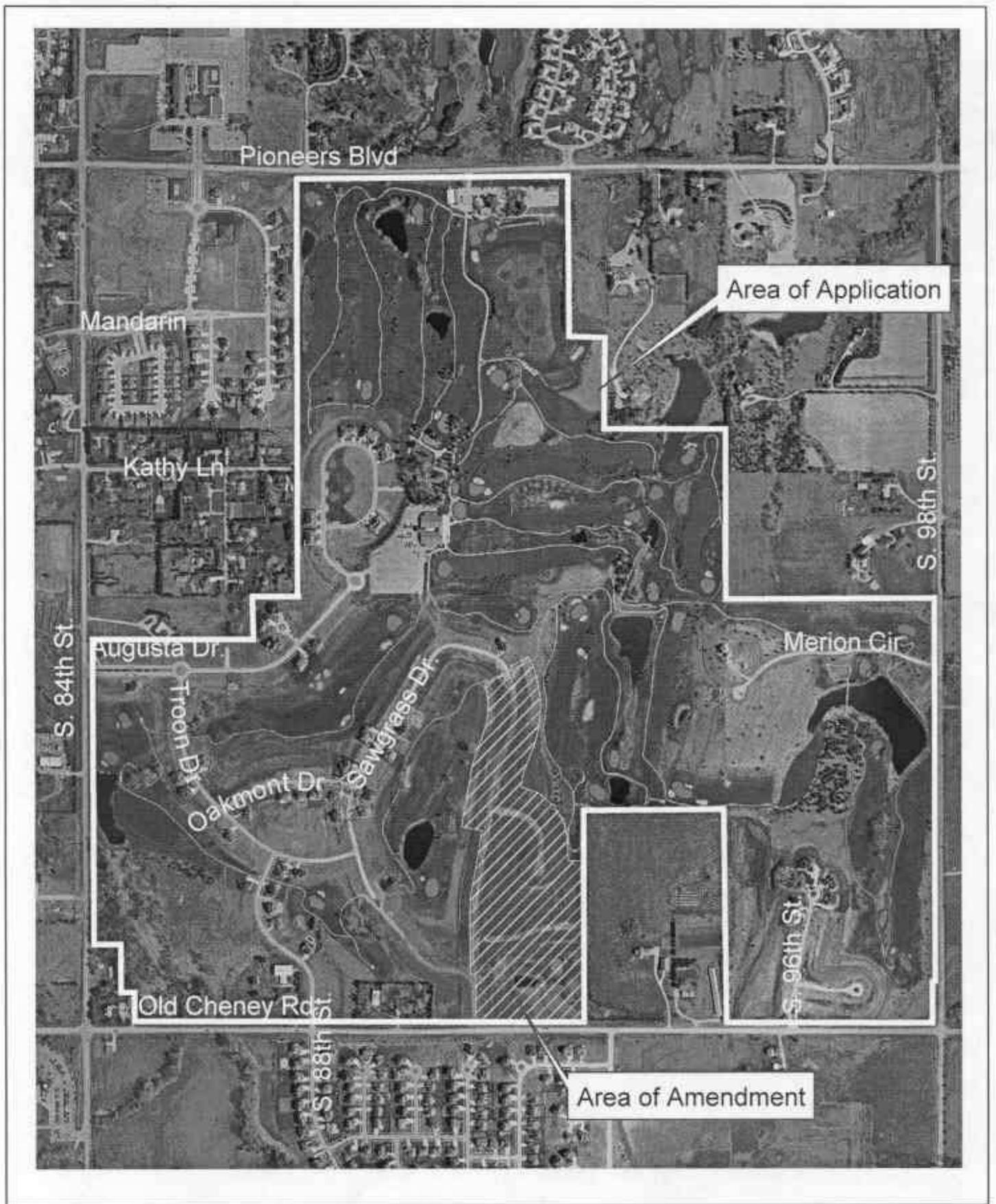
September 17, 2003

Bills-Strand moved to approve the staff recommendation of conditional approval, seconded by Larson.

Bills-Strand believes that this looks like a nice subdivision. She has seen this in other communities, and looking at the front of houses is more attractive than looking at backs of houses.

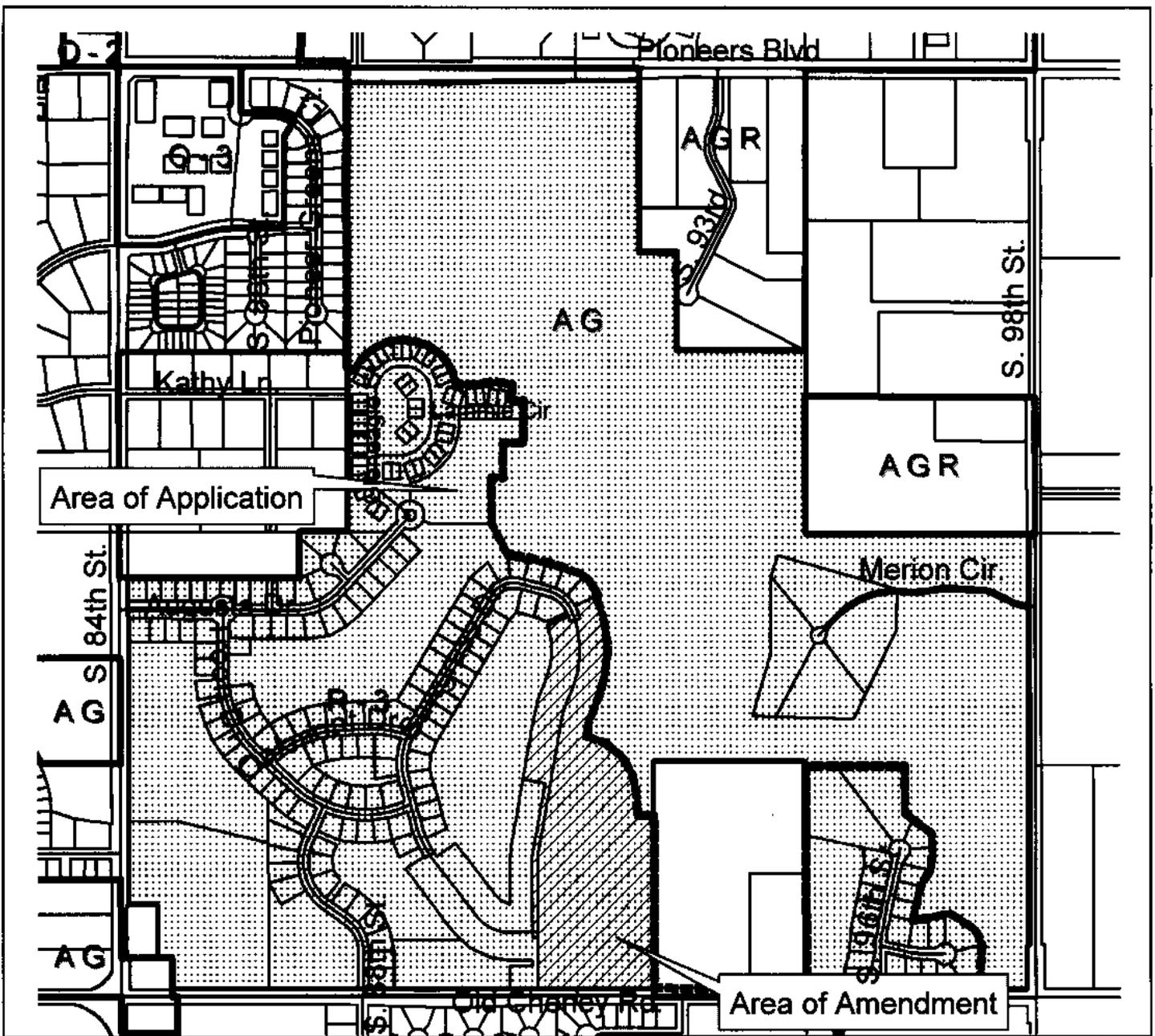
Steward observed that the development to the south is primarily on streets that run north and south with housing that faces each other. Even if that were not the case, Old Cheney is scheduled to be a major arterial. It is very typical and appropriate in the community that there be some demarcation across major arterials of both appearances and uses. It is not unusual in terms of a Comprehensive Plan. He believes that the higher density is the appropriate developmental step in this proposed development and he will support the motion.

Motion for conditional approval carried 7-1: Larson, Bills-Strand, Carlson, Duvall, Marvin, Taylor and Steward voting 'yes'; Krieser voting 'no'.



Special Permit #1423G
S. 84th & Old Cheney Rd.
HiMark Estates CUP



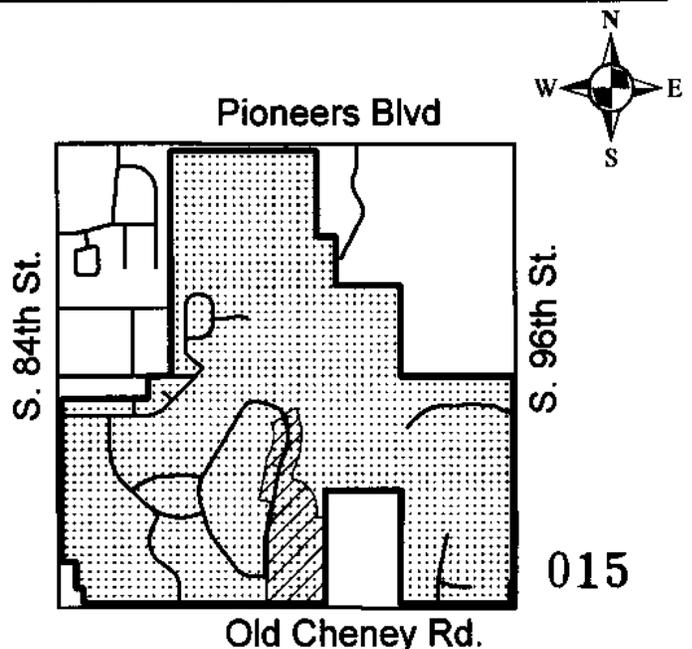
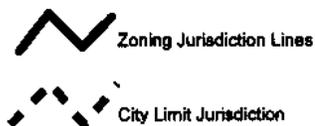


Special Permit #1423G
S. 84th & Old Cheney Rd.
HiMark Estates CUP

Zoning:

One Square Mile
Sec. 11 T9N R7E

- R-1 to R-8 Residential District
- AG Agricultural District
- AGR Agricultural Residential District
- R-C Residential Conservation District
- O-1 Office District
- O-2 Suburban Office District
- O-3 Office Park District
- R-T Residential Transition District
- B-1 Local Business District
- B-2 Planned Neighborhood Business District
- B-3 Commercial District
- B-4 Lincoln Center Business District
- B-5 Planned Regional Business District
- H-1 Interstate Commercial District
- H-2 Highway Business District
- H-3 Highway Commercial District
- H-4 General Commercial District
- I-1 Industrial District
- I-2 Industrial Park District
- I-3 Employment Center District
- P Public Use District



HIMARK ESTATES



AMENDMENT TO THE C.U.P.D.

SITE PLAN

LINCOLN NEBRASKA 2003

AUG 7 2003



SHEET 1 OF 3

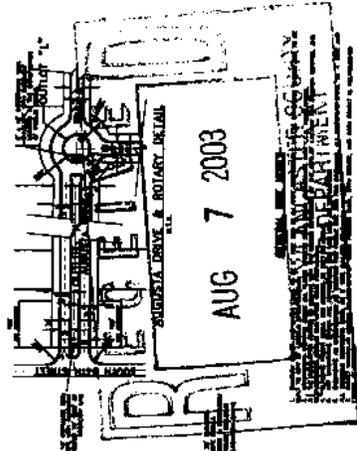
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 LINCOLN, NEBRASKA 68502
 PHONE: 402-441-1111
 FAX: 402-441-1112
 WWW.OVIATION.COM

DESIGNED BY:
 OVIATION ASSOCIATES
 1111 S. 17TH AVENUE
 LINCOLN, NEBRASKA 68502
 PHONE: 402-441-1111
 FAX: 402-441-1112
 WWW.OVIATION.COM

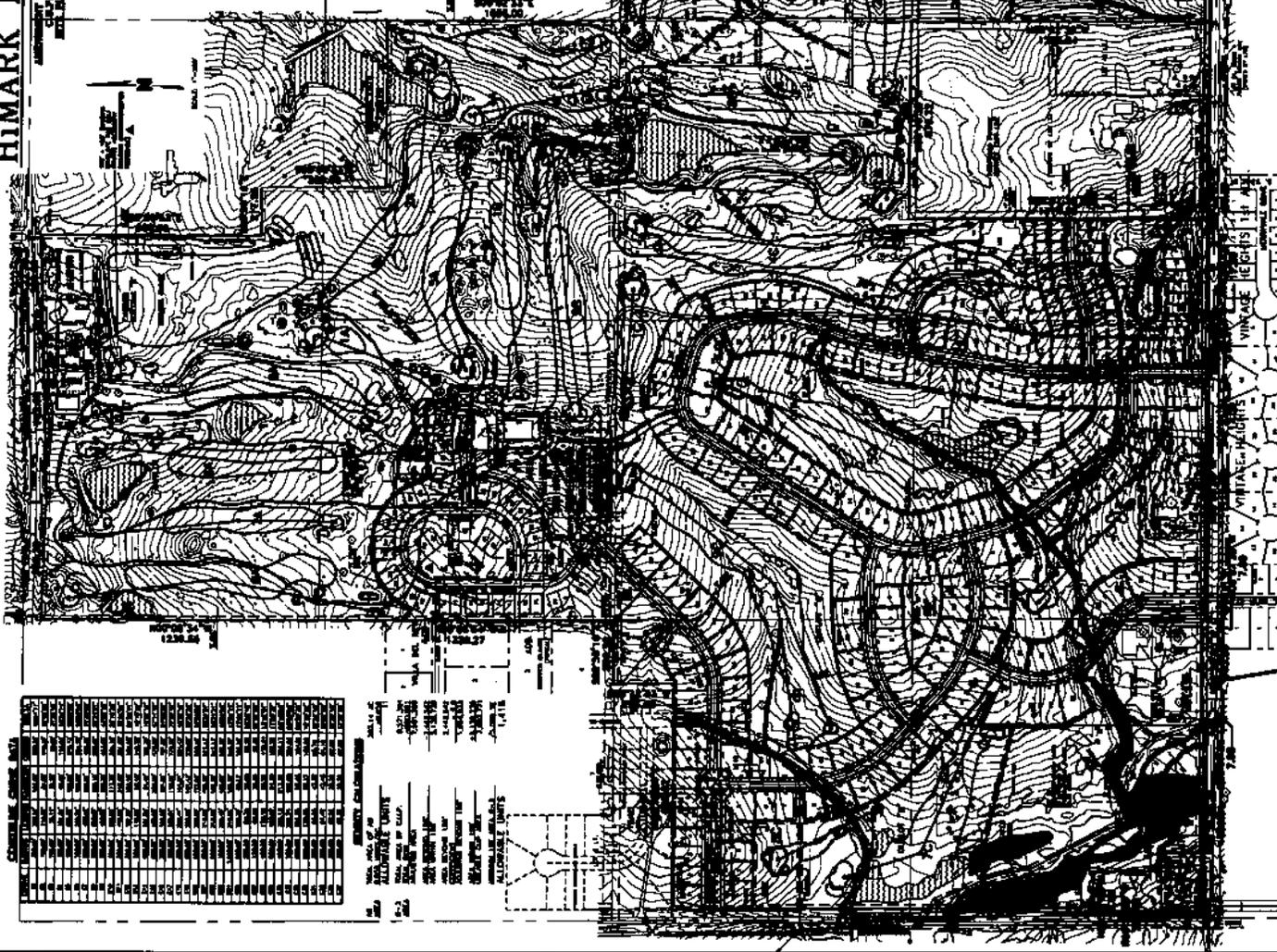
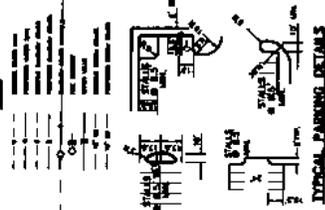
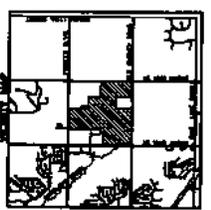
DATE:
 AUGUST 7, 2003

PROJECT:
 HIMARK ESTATES
 1111 S. 17TH AVENUE
 LINCOLN, NEBRASKA 68502
 PHONE: 402-441-1111
 FAX: 402-441-1112
 WWW.OVIATION.COM

DESCRIPTION:
 THIS SITE PLAN SHOWS THE LAYOUT OF THE HIMARK ESTATES PROJECT, INCLUDING THE LOCATION OF THE HIMARK BUILDING, THE HIMARK DRIVE, AND THE HIMARK PARKING LOT. THE PROJECT IS SITUATED ON A 10.00 ACRES PARCEL OF LAND. THE HIMARK BUILDING IS A 100,000 SQ. FT. OFFICE BUILDING. THE HIMARK DRIVE IS A 100 FT. WIDE DRIVEWAY. THE HIMARK PARKING LOT IS A 100 FT. WIDE PARKING LOT. THE PROJECT IS DESIGNED TO ACCOMMODATE 100 EMPLOYEES AND 100 VISITORS. THE HIMARK BUILDING IS TO BE CONSTRUCTED ON THE EAST SIDE OF THE HIMARK DRIVE. THE HIMARK DRIVE IS TO BE CONSTRUCTED ON THE WEST SIDE OF THE HIMARK BUILDING. THE HIMARK PARKING LOT IS TO BE CONSTRUCTED ON THE SOUTH SIDE OF THE HIMARK DRIVE. THE PROJECT IS TO BE CONSTRUCTED IN ACCORDANCE WITH THE CITY OF LINCOLN ZONING ORDINANCES AND THE NEBRASKA ZONING ACT.



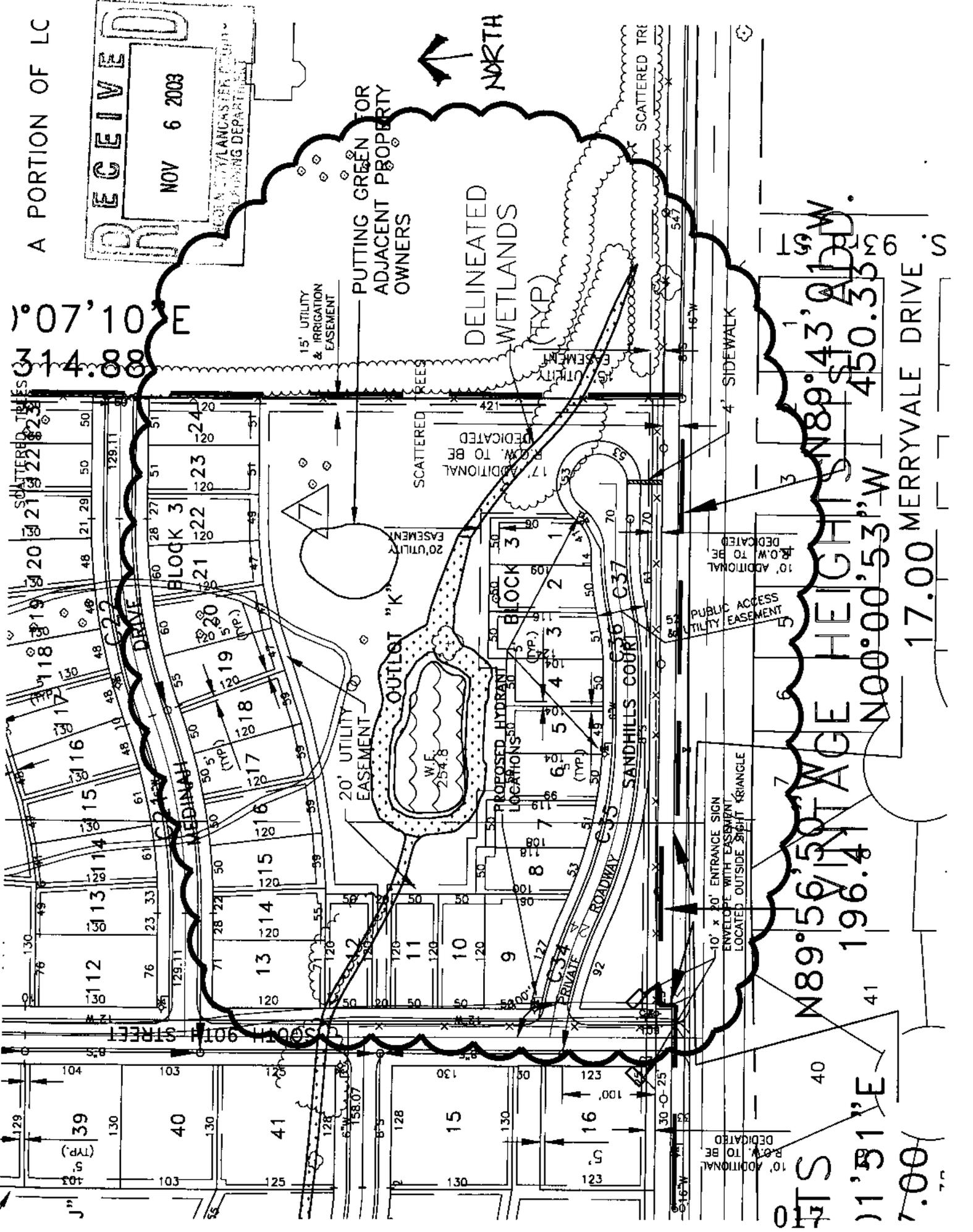
GENERAL NOTES:
 1. THIS SITE PLAN IS A PRELIMINARY DESIGN AND IS SUBJECT TO CHANGE WITHOUT NOTICE.
 2. THE PROJECT IS TO BE CONSTRUCTED IN ACCORDANCE WITH THE CITY OF LINCOLN ZONING ORDINANCES AND THE NEBRASKA ZONING ACT.
 3. THE HIMARK BUILDING IS TO BE CONSTRUCTED ON THE EAST SIDE OF THE HIMARK DRIVE.
 4. THE HIMARK DRIVE IS TO BE CONSTRUCTED ON THE WEST SIDE OF THE HIMARK BUILDING.
 5. THE HIMARK PARKING LOT IS TO BE CONSTRUCTED ON THE SOUTH SIDE OF THE HIMARK DRIVE.
 6. THE PROJECT IS TO BE CONSTRUCTED IN ACCORDANCE WITH THE CITY OF LINCOLN ZONING ORDINANCES AND THE NEBRASKA ZONING ACT.



NO.	DESCRIPTION	AREA (SQ. FT.)	VOLUME (CU. YD.)
1	GRAVEL DRIVE	10,000	100
2	GRAVEL PARKING	10,000	100
3	GRAVEL CURB	10,000	100
4	GRAVEL SIDEWALK	10,000	100
5	GRAVEL TOTAL	40,000	400
6	GRAVEL DRIVE	10,000	100
7	GRAVEL PARKING	10,000	100
8	GRAVEL CURB	10,000	100
9	GRAVEL SIDEWALK	10,000	100
10	GRAVEL TOTAL	40,000	400

A PORTION OF LC

RECEIVED
NOV 6 2003
MEDINA CITY/LANCASTER PLANNING DEPARTMENT



114°00'00" E

107°10'00" E

PUTTING GREEN FOR ADJACENT PROPERTY OWNERS

DELINEATED WETLANDS (TYP)

SCATTERED TREES

17' ADDITIONAL DEDICATED ROW TO BE DEDICATED

20' UTILITY EASEMENT

W.F. 2548

PROPOSED HYDRANT LOCATIONS

SANDHILLS COURT

PRIVATE ROADWAY C35

PRIVATE ROADWAY C36

SANDHILLS COURT C37

10' x 20' ENTRANCE SIGN ENVELOPE WITH EASEMENT LOCATED OUTSIDE RIGHT TRIANGLE

10' ADDITIONAL DEDICATED ROW TO BE DEDICATED

5' PUBLIC ACCESS & UTILITY EASEMENT

4' SIDEWALK

SCATTERED TREES

15' UTILITY & IRRIGATION EASEMENT

10' ADDITIONAL DEDICATED ROW TO BE DEDICATED

PTS
11°51"E
196.4
N89°56'50"W
450.35
N89°43'01"W
450.35
N00°00'53"W

17.00
17.00 MERRYVALE DRIVE

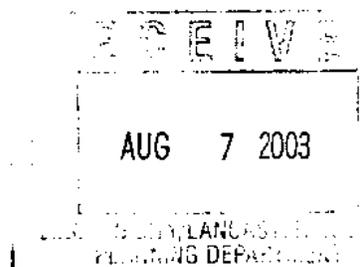
17.00 MERRYVALE DRIVE



OLSSON ASSOCIATES
ENGINEERS • PLANNERS • SCIENTISTS • SURVEYORS

August 7, 2003

Mr. Marvin S. Krout, Director
Lincoln Lancaster Planning Department
County-City Building
555 South 10th Street, Suite 213
Lincoln, NE 68508



Re: HiMark Estates
Amendment to the Community Unit Plan #1423
OA Project No. 2003-0536

Dear Mr. Krout,

We are requesting an "Amendment to the Community Unit Plan" to add 20 Single Family units in the area east of 90th Street, north of Old Cheney Road. The proposed lots will be a "Patio Home" development. The builder will be Manzitto Custom Homes.

We have met with Ray Hill and Greg Czaplewski regarding this amendment. At the meeting, Ray Hill asked if the lots north of Medinah Drive could be changed to the smaller Patio Home lot size to maintain consistency on both sides of the roadway. One of the lots on the north side had been pre-sold to a builder. We have been successful relocating that builder to another lot, and have therefore included the north side of Medinah Drive as "Patio Home" sized lots.

The Private roadway (Sandhills Court) is 110' from the centerline of Old Cheney Road. We are requesting a waiver to design standards from the required 120' intersection separation. The private roadway serves 8 lots and will function more as a driveway rather than a roadway. The driveway design standards would allow a driveway 55' from the back of curd in Old Cheney Road.

We are also requesting a waiver to design standards for lot size. Outlot "O" does not meet the required lot area requirements. This Outlot is designated green space / landscaping area.

The Cul-de-sac size is not to design standards (35' radius). A waiver to design standards for cul-de-sac geometry has previously been approved for this C.U.P. We are requesting sidewalks be located only on the north side of Sandhills Court. This is consistent with the previously approved waivers for sidewalks.

018

Color renderings of the proposed buildings were submitted to Ray and Greg at our meeting. We can provide more copies if required.

Enclosed, please find the following documents:

1. Revised Site Plan, Sheet 1; 21 copies
2. Revised Grading & Drainage Plan, Sheet 2; 9 copies
3. Revised Profile Sheet, Sheet 5; 9 copies
4. Revised Landscape Plan, Sheet 8; 9 copies
5. City of Lincoln Zoning Application; "Community Unit Plan; Amendment"
6. Filing fee for "Community Unit Plan"; \$595.00
7. 8 ½" x 11" Reduced Drawings of the Site Plan
8. Ownership Certificate

We look forward to working with you and your staff to develop a solution. Please contact either myself, or Dan Muhleisen if you have any questions or require any additional material.

Sincerely,



Mark C. Palmer P.E.

cc: Dan Muhleisen, P.E. (D & M Development)
Manzitto Brothers Custom Homes

F:\Projects\20010350\doc\Kraut-M.Letter10-17-02.wpd



"Mark Palmer"
<MPalmer@oaconsulti
ng.com>

To: <GCzaplewski@ci.lincoln.ne.us>
cc:
Subject: HiMark Estates

09/03/2003 04:55 PM

Greg

On behalf of both Jackie Snyder (Snyder court amendment) and Dan Muhleisen (Sandhills Court amendment) I am requesting the following waivers:

1. The additional 10' of Right of Way requested by Public Works (to make 120' of right of way) be in the form of an easement for Right of Way.

Justification:

The developer would like to utilize this property for landscaping purposes to screen their development from Old Cheney Road.

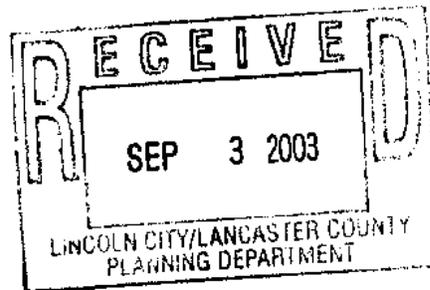
2. That the requirement for the preliminary plat be waived.

Justification:

The amendment to the preliminary plat would be a redundant amendment. It would be a technicality that would create more paperwork for the planning staff and require additional review time. The CUP accounts for the same issues that the preliminary plat would cover.

Please call if you have any questions.

Mark

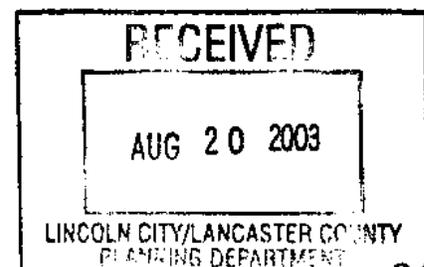


M e m o r a n d u m

To: Greg Czaplewski, Planning Department
From: ^{CB} Chad Blahak, Public Works and Utilities
Subject: Hi Mark Estates Special Permit #1423F
Date: August 18, 2003
cc: Randy Hoskins

Engineering Services has reviewed the submitted amendment to the Hi Mark Estates special permit, located at the northeast corner of South 84th and Old Cheney Road and has the following comments:

- The requested waiver of design standards to allow side walks on the north side of Sand Hills Court only is acceptable to Public Works as there are no units taking access to the south side.
- The requested waiver of design standards to allow a 35' radius turnaround is acceptable to Public Works.
- The requested waiver of design standards for intersection separation of 110' instead of the minimum required 120' is not acceptable to Public Works. It appears that the required 120' could be met with minimal adjustments to the lot and street layout.
- Minimum openings need to be provided for Lots 1-19 in Block 3 as they back onto the proposed pond. Although the pond was not intended to function for detention purposes, the outlet pipe is only designed for the ten year storm. Thus, any storm greater than the ten year will fill pond area and eventually overtop South 90th Street. The depth of flow over the curb should be taken into consideration when determining minimum opening elevations. The 100 year storm elevation should also be provided.



Dennis D Bartels

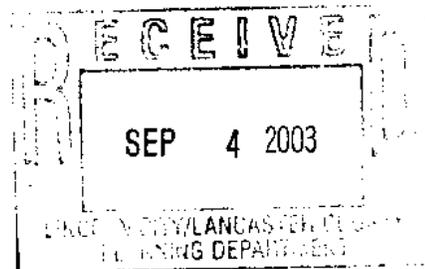
To: Gregory S Czaplewski/Notes@Notes

09/04/2003 08:08 AM

cc: Chad E Blahak/Notes@Notes, Randy W Hoskins/Notes@Notes
Subject: Re: HiMark Estates

Engineering Services objects to the right of way being in the form of easements. Until the street is designed it is difficult to predict with certainty the street improvements that will be in the right of way and the location of the improvements. For instance the street paving may be determined to be located offset in the right of way since lots are already developed on the south side of Old Cheney with a 50' dedication from center. The potential landscaping in the proposed easement may interfere with the necessary street improvements.

Engineering Services has no objection to waiving the preliminary plat since the same information has been submitted with the special permits.



CITY OF LINCOLN, NEBRASKA

IMPORTANT

All systems & materials must comply Building, Mechanical and Gas Codes.

Return this report with two sets of corrected plans. The corrections noted below are required to be made to the plans prior to issuance of a permit. Please indicate under each item where the correction is made by plan sheet number or plan detail number.

A separate set of plans for review and and final approval must be submitted by the licensed installing contractor/s if fire suppression systems, sprinklers, dry powder, fire alarm systems or underground tanks are installed.

Plan Review Comments

Permit # **DRF03086**

Address

Job Description: **Development Review - Fire**

Location: **H. MARK ESTATES**

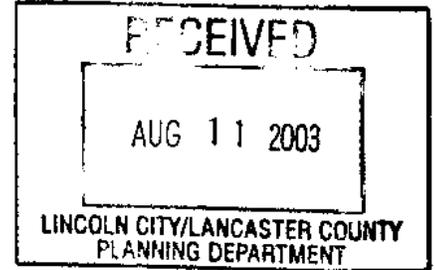
Special Permit: **Y 1423**

Preliminary Plat:

Use Permit:

CUP/PUD:

Requested By **GREG CZAPLEWSKI**



Status of Review: **Denied**

08/11/2003 10:59:38 AM

Reviewer: **FIRE PREVENTION/LIFE SAFETY CODE**

BOB FIEDLER

Comments: **do we have existing fire hydrants on sandhills court?**

Current Codes in Use Relating to Construction Development in the City of Lincoln:

- 2000 International Building Code and Local Amendments
- 2000 International Residential Code and Local Amendments
- 1994 Nebraska Accessibility Guidelines (Patterned after and similar to ADA guidelines)
- 1989 Fair Housing Act As Amended Effective March 12, 1989
- 1979 Zoning Ordinance of the City of Lincoln as Amended including 1994 Parking Lot Lighting Standards
- 1992 Lincoln Plumbing Code (The Lincoln Plumbing Code contains basically the 1990 National Standard Plumbing Code and local community Amendments.)
- 1999 National Electrical Code and Local Amendments
- 1997 Uniform Mechanical Code and Local Amendments
- 1994 Lincoln Gas Code
- 1994 NFPA 101 Life Safety Code
- 2000 Uniform Fire Code and Local Amendments
- Applicable NFPA National Fire Code Standards

Memo



To: Greg Czaplewski, Planning Department

From: Mark Canney, Parks & Recreation

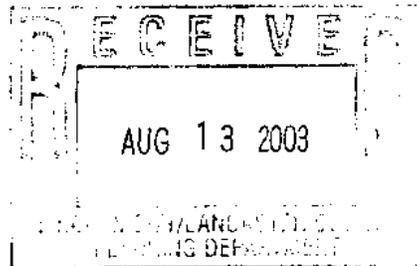
Date: August 13, 2003

Re: HiMark Estates SP1423 F

Staff members of the Lincoln Parks and Recreation Department have conducted a plan review of the above-referenced application/proposal and have the following comments:

1. Following change to Landscape Plan dated 02.10.98, Arborist Steve Schwab is Requesting the change in street tree from Greenspire Linden to Chanticleer Pear for Sandhills Court.

If you have any additional questions, comments or concerns, please feel free to contact me at 441-8248. Thank you.





JUNE SIMPSON
<jsimpso@lps.org>

08/27/2003 10:09 AM

To: plan@ci.lincoln.ne.us
CC:
Subject: Special Permit No. 1423G

Dear Planning Commission Members,

HiMark Estates wants to amend their Community Unit Plan. This proposal will, in effect, increase density. The HiMark development is the beginning of the stream bed that leads into the center of Lincoln. How will a proposed increase in density by waiving minimums help the run-off and silt problems that property owners are currently paying for in Holmes Lake?

An ever greater concern we have is for safety on 84th Street. As you may know, there are only 2 lanes with no shoulder much of the way between the area over 1/2 mile North of the HiMark development all the way to Highway 2. As residents of the city, just North of Pioneers on 84th on the east side, (with no services), and a promised widening over 5 years old (and the dearth of funds for "this" project), how will the number of accidents we see regularly fail to increase?

This proposed increase in density is in total disregard for the road safety problems, with the street use volume, the condition of the street, and the lack of funding to complete the project. Even if funding is found, it will be several years before 84th Street, a moving nightmare now, can handle any more traffic. It is like North 27th Street (if it were only 2 lanes) with through semi-truck traffic.

Please consider safety when looking at any increase in development and density along 84th Street until the dangers of congestion and a poor roadway are fixed. Remember, 84th Street was designated a Temporary Truck Route about 10 years ago, which means that semi-trailer trucks and cement and gravel truck use it regularly for moving to and from Highway 6 and Highway 2. Regular morning and after work traffic back up at Pioneers for almost a mile. Less than 2 weeks ago, I saw the results of a 3 car accident at Prescott, where one vehicle hit a tree and clipped it off.

Thank you for considering the street conditions and public safety in looking at Special Permit No. 1423G.

Sincerely,

June Simpson and Jerry Kroeger
3800 S. 84th Street
402.489.8168

Dennis D Bartels

08/29/2003 09:58 AM

To: Gregory S Czaplewski/Notes@Notes
cc: Randy W Hoskins/Notes@Notes
Subject: Re: Special Permit No. 1423G 

I do not regard the density of the development to materially affect the potential sediment and erosion problems. A similar amount of property will be disturbed in grading for the larger low density lots as for the smaller more dense development. In regard to 84th Street traffic, projects to widen the street to four lanes are underway and will be completed as funding and phasing considerations will allow.



Randy W Hoskins

08/29/2003 04:13 PM

To: Gregory S Czaplewski/Notes@Notes
cc:
Subject: Re: Special Permit No. 1423G 

I talked to Dennis and know he responded to your request, so I'll just add a few thoughts if you haven't already typed this up and sent it off.

I checked around, no one here admits to have actually seen 1423G. From what I saw of the other plans, the changes in density for all these proposed changes are minimal, perhaps resulting in a loss of density. It will be difficult to tell a difference in traffic based on the changes I saw on the plans. This small increase or decrease will have little impact on the safety or operation of 84th St or its intersection with Pioneers.

84th St is designated as a permanent truck route through the City. That is part of the reason why it is so important to construct the project that will widen it all the way south of Highway 2.

Obviously we are getting ready to construct the Highway 2 project. It has been under design and right-of-way has been in the process of being purchased for some time, but construction will start in earnest in the spring of 2004. Funding for this project is in place and the construction will not be held up as a result. RH

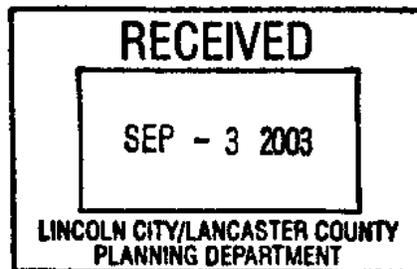
Concerns Regarding the Amendment to the HiMark Estates Community Unit Plan, Special Permit No. 1423G

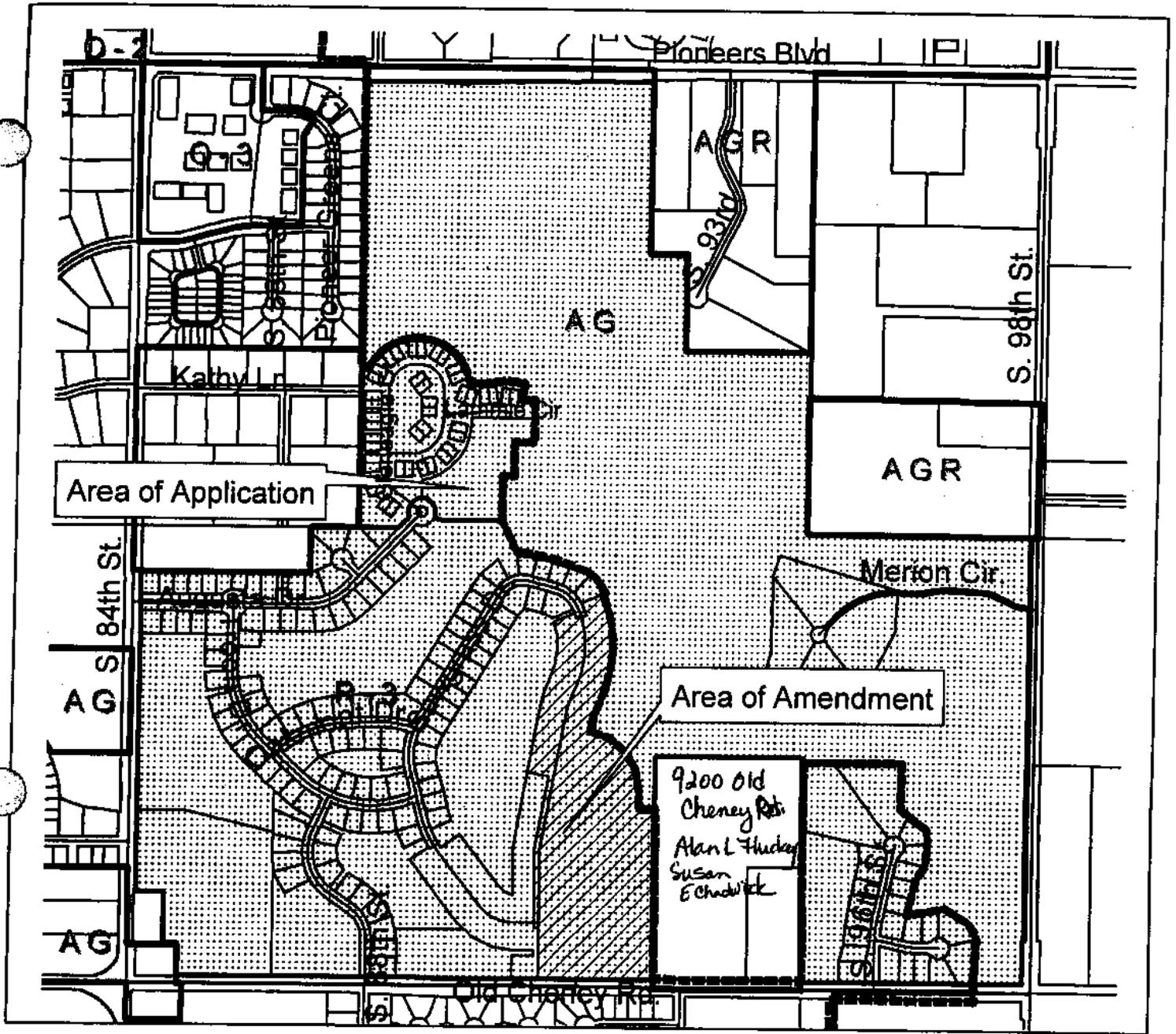
Submitted by Alan Fluckey and Susan Chadwick, 9200 Old Cheney Rd., Lincoln NE 68526
(Property east of the area of amendment. Map attached.)

1. The amendment to add 20 more single family units does not fit into the current land use where there currently is openness, oversized lots, and sufficient green space.
2. The increased density of homes will have a negative impact to our land and the surrounding area by increasing the amount of noise, activities, and light pollution emitting from such a compacted neighborhood.
3. As outlined in a previous communication to the Planning Commission related to Change of Zone No. 3125, Special Permit No. 1423B, April 24, 1998, the developers have not installed, at their cost, a chain-link fence or equivalent at least six or eight feet in height along the full length of the west side of our property to restrict owners of the single family homes from accessing our property.

Proposed Alternative Action:

1. Reduce the number of single family units to allow more green space, to more appropriately fit the current land use of the surrounding properties.
2. Request the Planning Commission to require the developers, at their cost, to install a chain-link fence or equivalent at least six or eight feet in height along the full length of the west side of our property as requested in our previous communications, or at a minimum, along the amended portion of the unit plan, to prevent unauthorized access to our property. The addition of single family units will increase our liability should accidents occur on our property due to unauthorized access. The addition of the fence will help deter unauthorized access and, hopefully, reduce our liability.



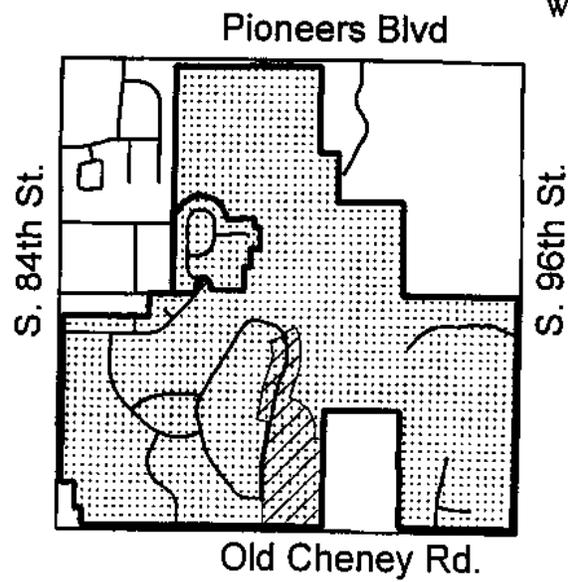


Special Permit #1423G
S. 84th & Old Cheney Rd.
HiMark Estates CUP

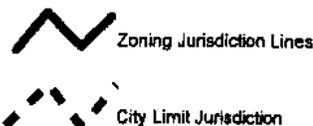
Zoning:

One Square Mile
 Sec. 11 T9N R7E

- R-1 to R-8 Residential District
- AG Agricultural District
- AGR Agricultural Residential District
- R-C Residential Conservation District
- O-1 Office District
- O-2 Suburban Office District
- O-3 Office Park District
- R-T Residential Transition District
- B-1 Local Business District
- B-2 Planned Neighborhood Business District
- B-3 Commercial District
- B-4 Lincoln Center Business District
- Planned Regional Business District
- Interstate Commercial District
- H-2 Highway Business District
- H-3 Highway Commercial District
- H-4 General Commercial District
- I-1 Industrial District
- I-2 Industrial Park District
- I-3 Employment Center District
- P Public Use District



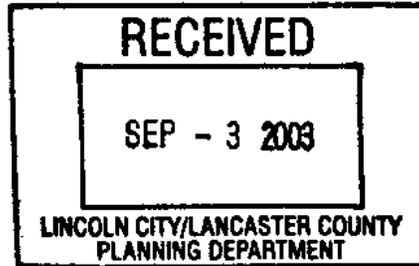
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BEFORE THE PLANNING COMMISSION

In the Matter of the Application for amendment)
to the HiMark Estates Community Unit Plan,)
to add approximately 20 single family)
units, with requests to waive the minimum)
intersection separation, lot size, cul-de-sac)
radius and sidewalks, on property legally)
described as all of the lots, blocks and outlots)
in the following subdivisions, HiMark Estates)
Addition, HiMark Estates 1st Addition, HiMark)
Estates 2nd Addition, HiMark Estates 3rd)
Addition, HiMark Estates 4th Addition, HiMark)
Estates 5th Addition Corrected, HiMark Estates 6th)
Addition, HiMark Estates 7th Addition, and)
Iron Gate Estates, all located in Section)
11-9-7, Lancaster County, Nebraska generally)
located at S. 84th Street and Old Cheney Road.)

Special Permit No. 1423G



PUBLIC COMMENTS OF ADJACENT HOMEOWNER IN OPPOSITION OF THE APPLICATION

Please accept these written comments in the place of live testimony at the hearing scheduled before the Commission on Wednesday, September 3, 2003. Because of prior commitments we are unable to attend and testify. My husband and I have resided at 9120 Merryvale Drive since August of 2000. We are strongly opposed to the application referenced above. We believe that the building of smaller and less expensive single family residential units in our area will decrease the value of our property, other properties in the area and would not serve the overall public interest.

We feel that this waiver and the addition of the planned 20 single family units will decrease the value of our property. Upon information received, it is our understanding that the lot sizes are very small in comparison to other lot sizes in the surrounding area. Aesthetically speaking, the plan does not comport with the surrounding area and would detrimentally impact the value of our home and other homes in the immediate area. We have invested considerable amounts of money in the building, maintenance and upkeep of our property and fear the loss of our investment. Moreover, when we built our home, research of the subject property indicated that no such development would be built on the north side of Old Cheney across from our home. We purchased our lot for the view of the golf course and the trees located directly north of Old Cheney and directly north of our home. It was our belief that much of this land was delineated as a wetland area and the remainder could not be developed in this fashion.

In addition, because Old Cheney is now, and in the foreseeable future will be, a two-lane road, and because of the large number of units proposed in the planned subject area, traffic congestion will be a significant problem. The level of road congestion on this two lane road should be a significant

consideration for any additional application; at least until Old Cheney is made into a four-lane road capable of handling additional traffic. We ask the planning commission to consider the effect on the current homeowners and the problems stemming from increased traffic in this area when making a decision on this application.

We respectfully request that the Planning Commission deny the application based on the reasons stated herein and on any other basis which it deems reasonable and proper.

Respectfully Submitted,

Shanicee Knutson
Jonathan Knutson
9120 Merryvale Drive
Lincoln, Nebraska 68526
(402)488-9533

IN OPPOSITION

ITEM NO. 3.2: SPECIAL PERMIT NO. 1423H
4.3: SPECIAL PERMIT NO. 1423G
(p.83 and p.185 - Public Hearing and
Cont'd Public Hearing - 9/17/03)

September 16, 2003

Planning Commission
555 South 10th Street, Suite 213
Lincoln, NE 68508

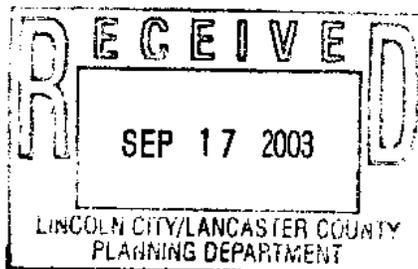
RE: SPECIAL PERMIT NO. 1423G and
SPECIAL PERMIT NO. 1423H

This letter is to protest Special Permit No. 1423G and Special Permit No. 1423H for the HiMark Estates Community Unit Plan. We built our home with the understanding certain covenants regarding square footage, etc. would be followed. If Special Permit No. 1423G and Special Permit No. 1423H are approved, it would mean smaller homes would be built which would devalue our property. We firmly believe the restrictive covenants established for this development should be followed for all lots in this development.

Thank you.

Pete Gange
Marianne Gange

Pete and Marianne Gange
5033 Sawgrass Drive
Lincoln, NE 68526

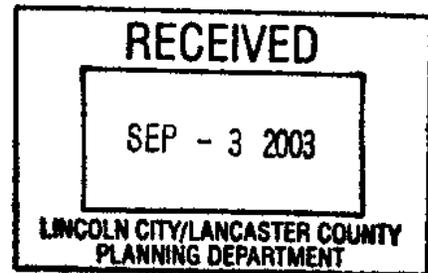


Testimony before the Lincoln/Lancaster County Planning Commission - Special Permit #1423G

Date: September 3, 2003

To: W. Cecil Steward, Chair of the Planning Commission
and the balance of the distinguished Commissioners

From: Wayne E. Janssen
9200 Merryvale Dr.
Lincoln, NE 68526



TESTIMONY IN OPPOSITION TO SPECIAL PERMIT #1423G:

I. LACK OF CONFORMITY WITH THE EXISTING NATURE OF THE RESIDENTIAL DEVELOPMENT IN THE IMMEDIATE AREA:

My wife and I purchased our building lot at Lot 8, Block 1, Vintage Heights 4th Addition, which is shown on most of the maps being circulated with this application as Lot 3, Vintage Heights 1st Addition. Our lot is just West of 93rd Street and East of 90th Street on Old Cheney. We spent over \$200,000.00 on the purchase of the lot and construction of the home. We built thinking that it would be a safe investment in light of the nature of the proposed development in the area. That area included HiMark Estates which was just to the North of our property. At that time the area was platted to provide for lots with at least 100 foot frontages and an open space was designated as an out lot just behind our property, the current Outlot "K".

The request made in the permit application drastically changes the entire tenor of the area by congesting it with 50 foot or less frontage lots that are proposed to facilitate single family "patio homes". The homes that were proposed for the original lots would maintain the investment of those persons who had already purchased lots in the area but the current proposal has the opposite effect. This type of home would be of much lower cost and value. Also these homes would seem to be particularly suitable as rentals. While all rentals are not bad such a concentration of rentals would seem out of place in the area as originally planned and relied upon by current home owners.

II. LACK OF SUFFICIENT RIGHT OF WAY FOR OLD CHENEY ROAD:

The plat as currently presented dedicates an additional 17 feet for right of way on Old Cheney Road. If the 17 feet is so dedicated that would give Old Cheney a 100 foot right of way. The Lancaster County Comprehensive Plan adopted May 28, 2002 provides at page F112 that Old Cheney Road shall have a 120 foot right of way at 90th Street. At the present time the plat for Vintage Heights only provides for a 100 foot right of way. It would seem logical to take an additional 20 feet from the North side of Old Cheney as that side of the road is still undeveloped and appropriate adjustments could be made in the new plats to provide the required right of way. If 20 feet were added on the North then the cost of relocating existing utilities and landscaping along Vintage Heights could be avoided. A potential problem also exists with drainage if the

berm currently situated behind the lots on Merryvale were to be moved or removed such that water may be directed into ground level basement windows in the current structures. In any event the plat as suggested should be required to add at least an additional 10 feet of right of way to comply with the Comprehensive Plan.

III. WAIVER OF INTERSECTION SEPARATION REQUIREMENT IMPROPER AND UNSAFE IN LIGHT OF PROXIMITY TO OLD CHENEY ROAD AND SNYDER COURT:

The current plat provides for a "10' x 20' entrance sign envelope with easement located outside sight triangle". If one looks at the plat it becomes obvious that the sign will be in direct conflict with the line of sight between the Sandhills Court roadway entrance and traffic turning off of Old Cheney Road from either direction. I am familiar with the traffic patterns along this stretch of Old Cheney and know for a fact that a sizeable proportion of the traffic passes at excessive speed, sometimes approaching 100 miles per hour. Traffic approaching 90th Street from the West could be forced to execute the left turn in a hurry and could be surprised by traffic entering 90th Street from Sandhills Court. The plat that is proposed for Snyder Court which will be directly West of Sandhills Court will only amplify this problem when a home is placed on Lot 1, Block 6. For this reason alone the entry point of Sandhills Court onto 90th Street should be moved back from Old Cheney Road.

The requirement of 120 feet between intersections is apparently interpreted as being from centerline to centerline. This requirement is probably adequate for most streets but in this situation Old Cheney Road will eventually be at least five lanes and potentially six lanes or more at this intersection. With or without a traffic light at this intersection the potential confusion and need for fast decisions experienced by drivers at this intersection would seem to require a clear area for accessing 90th Street. Concerns about cars entering from Sandhills Court at what may be only a few feet from the outside curb of Old Cheney Road will only serve to complicate the situation and potentially result in accidents or even fatalities.

Special Permit #1423H will be presented to this Commission in approximately two weeks and provides for the plating of the land directly to the West of Sandhills Court. That plat which is attached hereto for your reference, provides for Snyder Court to enter 90th Street approximately 50 feet North of the intersection of Sandhills Court. All the comments previously made in this testimony about Sandhills Court are made even more important by the addition of the Snyder Court intersection. If the waiver is given to Sandhills Court as it relates to Old Cheney Road the problem will only be moved North to the conflict with Snyder Court. It would be better to consider these two special permits together to determine the best treatment of this intersection problem. If these two applications are not on the same agenda the Commission should place Special Permit #1423G on pending until both applications can be considered together.

The Commission should also be aware of the general layout of the streets as platted to the North of the intersections of 90th Street and Sandhills Court and Snyder Court. A simple count of the lots which would use 90th Street to access Old Cheney Road reveals at least 157 single family dwellings. If one even presumes only 1 ½ cars going from each of these units to work in the morning and returning at night that would presume at least 235 cars entering or exiting Old

Cheney Road at this intersection during any given peak usage time. This number may be conservative in light of the likelihood of the patio homes being used as rental properties with additional cars being associated with them. Sandhills Court could provide as many as 24 cars to this traffic pattern. With that amount of traffic it would seem incumbent on the Planning Commission to attempt to make that intersection as safe as possible.

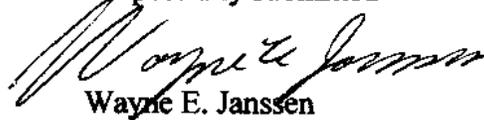
It would seem that the best way to make this intersection safer is to at least make the Southern most portion of 90th Street as uncluttered as possible. This could best be accomplished by deleting Sandhills Court from the plat as proposed in Special Permit #1423G. This would eliminate all the need for waivers of requirements that were deemed appropriate and relevant before Sandhills Court was proposed. It would eliminate most of the problems with the 100 year flood. It would also eliminate the congested appearance of the homes as seen off of Old Cheney Road. Last but not least it would eliminate the hazard of a private drive serving eight single family residences without what appears to be adequate turn around or access space for emergency vehicles. The access problem in this area would be even worse if the residents began parking vehicles on Sandhills Court.

IV. CONCLUSION:

I would argue that almost all of the adverse considerations raised in this argument in opposition to Special Permit #1423G could be eliminated by deleting Sandhills Court and Lots 1 through 8. This would almost eliminate the congested appearance of so many small lots since most of those lots would be along Medinah Drive. This would leave Outlot "K" as a pleasing addition to the area. And last but not least it would eliminate the potentially deadly traffic hazard that would otherwise exist at the intersection of Old Cheney Road and 90th Street. The elimination of Sandhills Court is not an unnecessary burden on the developer but rather an appropriate exercise of the authority and foresight of the Planning Commission.

Thank you for considering my arguments on this subject.

Respectfully submitted



Wayne E. Janssen



Jean L Walker

09/22/2003 10:43 AM

To: "The Shraders" <ds73630@alltel.net>
 cc: Marvin S Krout/Notes@Notes, Ray F Hill/Notes@Notes, Gregory S Czaplewski/Notes@Notes, jcjc@navix.net, sduvall@neded.org, csteward1@unl.edu, giims@radiks.net, Jean L Walker/Notes@Notes, gdkrieser@yahoo.com, mbills@woodsbro.com, roger.larson@wellsfargo.com, dmarvin@neb.rr.com, Dennis D Bartels/Notes@Notes, rpeo@netinfo.ci.lincoln.ne.us@Notes, mhunzeker@pierson-law.com, (bcc: Jean L Walker/Notes)
 Subject: Re: Special Permit # 1423G & 1423H

We have received your comments which will become part of the official record on these applications. Please be advised that these two special permits were recommended for approval, with conditions, by the Planning Commission on September 17, 2003. Upon completion of the necessary conditions of approval, these applications will be scheduled for a public hearing before the City Council. Your comments will be forwarded to the City Council at that time.

--Jean Walker, Administrative Officer
 City-County Planning Department
 441-6365
 "The Shraders" <ds73630@alltel.net>



"The Shraders"
 <ds73630@alltel.net>
 09/22/2003 10:27 AM

To: "Greg Czaplewski" <plan@ci.lincoln.ne.us>
 cc:
 Subject: Special Permit # 1423G & 1423H

Dear Planning Commission Members,

My name is Daren Shrader and I live at 5430 South 88th Street in the HiMark Subdivision. I would like you to know that I oppose the above referenced applications.

Our neighborhood already has enough streets that are too narrow. For example South 88th Street. If there are cars parked on both sides of the street, than only one care can fit through. I feel this is dangerous due to the fact that South 88th Street is an entrance and exit street for the neighborhood. And our neighborhood has a lot of kids. If I read the application map correctly, this is what is proposed by the developers on another street that will handle the traffic going in and out of the subdivision.

Another reason for opposing this change is due to the fact that when we bought our lot, we purchased with the understanding that the majority of the homes would be over a certain square footage, they would be a certain percentage of brick or like kind. I think if you allow the developer to have more lots that are smaller than the homes will be at the bare minimum of square footage, or they will look stupid sitting on a lot where they can reach out and shake their neighbors hand from the bathroom window. I have seen this in other neighborhoods around the country and I do not want this happening here. I thought this was going to be an upscale development since we are located on or near a golf course.

Thank you for your time and consideration in this matter.

Sincerely,

Daren Shrader

